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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,886	02/27/2002	Dan Kikinis	ISURFTV159	7769
52940 7590 04/20/2007 HOLLAND & KNIGHT LLP 131 S. DEARBORN STREET 30TH FLOOR CHICAGO, IL 60603			EXAMINER SCHNURR, JOHN R	
			ART UNIT	PAPER NUMBER
			2623	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/20/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/085,886	Applicant(s) KIKINIS, DAN	
	Examiner John R. Schnurr	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-12, filed 02/23/2007, have been fully considered but they are not persuasive.
2. In response to applicant's arguments (page 7 2nd paragraph through page 8 3rd paragraph) that the combination of McClard and Knee would not teach, motivate or suggest to one skilled in the art modifying the highest reception frequency of McClard with the predefined demographic categories of Knee, applicant should note that McClard teaches a method of determining characteristics of a user (If a channel is tuned for a predetermined period of time the type/genre of the program is recorded to memory 56, column 5 line 56 to column 6 line 9.) This method may be combined with the demographic profile creation and advertisement selection of Knee, which states, "Any suitable technique for generating information representing the demographic characteristics of the user may be used", [0034].

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4, 5, 7, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over **McClard (US Patent 6,438,752)** in view of **Knee et al. (US Patent Application Publication 2002/0095676)**, herein Knee.

Referring to **claim 1**, McClard teaches a method comprising:

adding a category from a first set of broadcasted programs provided by a media provider (**Head-end server 34 provides media and category information, column 4 lines 27-39.**) to a second set of categories of broadcasted programs in response to a broadcasted program viewing device being tuned, for a period of time at least equal to a first predetermined threshold, to at least one broadcasted program predetermined to be in the category from the first set (**Column 4 lines 64-67 and Figure 3 element 54 teaches storing program category information in the memory and Column 5 lines 52-67 and Column 6 lines 1-9 teaches that when a program is watched for a period of time the program is added to a frequency watch list in memory 56 of Figure 3 and along with the program name the type/genre is added to memory 56 thus the category of a program is added from a first set of categories in memory 54 to a second set of data that includes categories in memory 56**);

McClard fails to teach determining a demographic profile based on the second set; and selecting a first advertisement based on the demographic profile.

In an analogous art Knee teaches determining a demographic profile based on the second set (**Paragraphs [0029] and [0030] and Figure 2 teach determining demographic categories for a user; Paragraph [0036] teaches that a shows category is used determine a users demographic profile**); and selecting a first advertisement based on the demographic profile (**Paragraph [0050] teaches determining an advertisement from the user demographic profile**).

At the time the invention was made it would have been obvious for one skilled in the art to modify the category set moving method McClard using the demographic profiling and advertisement determination method of Knee for the purpose of categorizing user information into demographic categories that could then be used for specified purposes, such as for

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targeting advertisements or taking certain actions in the program guide (Paragraph [0007], Knee).

Referring to **claim 4**, depending on claim 1, Knee teaches receiving a set of advertisements including the first advertisement (**Paragraph [0023]**).

Referring to **claim 5**, depending on claim 1, Knee teaches removing a category from the second set in response to the broadcast program viewing device not being tuned for a period of time at least equal to a second predetermine threshold, to at least one broadcasting program predetermined to be in the category from the second set (**Paragraph [0044]**).

Referring to **claim 7**, see the rejection of claim 1; (**McClard teaches Figure 3 teaches element 50 a processor and element 52 is memory according to Column 4 lines 54-61; Knee teaches Figure 1 and elements 64 memory and 60 a microprocessor according to Paragraph [0028].**)

Referring to **claim 10**, depending on claim 7, see the rejection of claim 4.

Referring to **claim 11**, depending on claim 7, see the rejection of claim 5.

5. Claims **2, 3, 8 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McClard (US Patent 6,438,752 B1)** in view of **Knee et al. (US Patent Application Publication 2002/0095676)** further in view of **Ellis et al. (US Patent Application Publication 2003/0020744)**, herein Ellis.

Referring to **claim 2**, depending on claim 1, McClard and Knee fail to teach displaying the first advertisement with an interactive programming guide.

In an analogous art Ellis teaches displaying the first advertisement with an interactive programming guide (**Paragraphs [0125] and [0126] teach selecting an advertisement and Paragraph [0110] teaches using viewer history to determine which advertisements to use in the program guide, Figure 5 elements 108**).

At the time the invention was made it would have been obvious for one skilled in the art to modify the combined methods of McClard and Knee

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using the targeted advertisement display method of Ellis for the purpose of providing users a user customized program guide experience (Paragraph [0010], Ellis).

Referring to **claim 3**, depending on claim 1, McClard and Knee fail to teach transmitting the second set to a unit at a head end of a broadcasting system.

In an analogous art Ellis teaches transmitting the second set to a unit at a head end of a broadcasting system (**Paragraphs [0125] and [0126] and Figure 2b teach transmitting the user history to the program guide server element 25**).

At the time the invention was made it would have been obvious for one skilled in the art to modify the combined methods of McClard and Knee using the transmission of recorded user history data to the head end of Ellis for the purpose of providing users' a user customized program guide experience (Paragraph [0010], Ellis).

Referring to **claim 8**, depending on claim 7, see rejection of claim 2.

Referring to **claim 9**, depending on claim 7, see rejection of claim 3.

6. Claims **5, 6, 11 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McClard (US Patent 6,438,752 B1)** in view of **Knee et al. (US Patent Application Publication 2002/0095676)** further in view of **Ohkura (US Patent 6,128,009)**.

Referring to **claim 5**, depending on claim 1, McClard and Knee fail to teach a second unit that is also to remove a category from the second set upon a selecting of the category from the second set.

In an analogous art, Ohkura teaches an EPG system wherein the second unit (**24H Fig. 4**) removes a category from a second set upon a selecting of the category from the second set (**Column 28 lines 41-60**).

At the time the invention was made it would have been obvious for one of ordinary skill in the art to modify the combined methods of McClard and Knee using the removal of a category method of Ohkura for the purpose of allowing the user to manually remove an undesirable category.

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Referring to **claim 6**, depending on claim 1, McClard and Knee fail to teach verifying the adding of the category from the first set to the second set.

In an analogous art Ohkura teaches verifying the adding of the category from the first set to the second set (**Column 32 lines 19-25 teaches checking to make sure categories have been moved from first set Figure 19 element 68 to the second set Figure 19 element 71**).

At the time the invention was made it would have been obvious for one of ordinary skill in the art to modify the combined methods of McClard and Knee using the verification method of Ohkura for the purpose of notifying the user to hasten the registration (Column 32 lines 25-30, Ohkura)

Referring to **claim 11**, depending on claim 7, see rejection of claim 5.

Referring to **claim 12**, depending on claim 7, see rejection of claim 6.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Schnurr whose telephone number is (571) 270-1458. The examiner can normally be reached on Monday - Friday, 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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